

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 270
ADULT PROTECTION AND ADVOCACY SERVICES

SUBPART A: INTRODUCTION

Section

270.10 Summary and Purpose
EMERGENCY

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section

270.100 Long Term Care Ombudsman Program
270.105 Definitions
270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman
270.115 Display of Ombudsman Poster
270.120 Access to Resident Records

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section

270.200 Purpose and Program Model
EMERGENCY
270.205 Adult Protective Services Program
EMERGENCY
270.210 Definitions
EMERGENCY
270.215 Organizational Standards and Responsibilities: Department on Aging
EMERGENCY
270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies
EMERGENCY
270.221 Elder Abuse Fatality Review Teams
270.225 Organizational Standards and Responsibilities: Adult Protective Services
Provider Agencies
EMERGENCY
270.230 Abuse Reporting
EMERGENCY
270.235 Immunity
EMERGENCY
270.240 Intake of Abuse, Neglect, and Financial Exploitation Reports

EMERGENCY

270.241 Reporting a Suspicious Death

EMERGENCY

270.245 Access to Alleged Victims

EMERGENCY

270.250 Minimum Assessment and Classification Standards

EMERGENCY

270.255 Abuse, Neglect and Financial Exploitation Case Work, Follow-Up, Referrals and Case Closure

EMERGENCY

270.260 Authority to Consent and Court Petitions

EMERGENCY

270.265 Early Intervention Services

EMERGENCY

270.270 Multi-disciplinary Teams

EMERGENCY

270.275 Confidentiality and Disclosure

EMERGENCY

SUBPART D: ADULT PROTECTIVE SERVICES VOLUNTEER CORPS

Section

270.280 Definitions

EMERGENCY

270.285 Selection and Screening

EMERGENCY

270.290 Training

EMERGENCY

270.295 Volunteer Agreement and Volunteer Responsibilities

EMERGENCY

270.300 Activities and Supervision

EMERGENCY

AUTHORITY: Implementing Section 4.04(c) of the Illinois Act on the Aging [20 ILCS 105/4.04(c)] and Section 10 of the Adult Protective Services Act [320 ILCS 20/10] and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.01(11)].

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days.

SUBPART A: INTRODUCTION

**Section 270.10 Summary and Purpose
EMERGENCY**

This Part describes the organization, standards and responsibilities of the programs that comprise the Department's Adult Protection and Advocacy Services.

- a) Services
These services include the Long Term Care Ombudsman Program, the Adult Protective Services Program and the Senior Legal Assistance Program.
- b) Purpose
 - 1) The Long Term Care Ombudsman Program is designed to ensure that adults aged 60 and over and persons with disabilities aged 18 through 59 receive quality services in long term care facilities or in home and community-based settings.
 - 2) The Adult Protective Services Program is designed to prevent abuse, neglect, financial exploitation, or self-neglect of adults with disabilities aged 18 through 59 and persons aged 60 or older who reside in a domestic living situation.
 - 3) The Senior Legal Assistance Program is designed to provide legal assistance to persons aged 60 or older.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

**Section 270.200 Purpose and Program Model
EMERGENCY**

- a) This Subpart describes the organization of the Adult Protective Services Program administered by and through the Illinois Department on Aging.
- b) The Adult Protective Services Program is modeled on the following principles:
 - 1) advocacy intervention by APS provider agencies;
 - 2) the right to self-determination by the alleged victim to:
 - A) decide where and how they will live;
 - B) choose whether to accept social services or other community assistance; and
 - C) make decisions different from those a reasonable adult would make, which are not harmful to others.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.205 Adult Protective Services Program
EMERGENCY**

The Adult Protective Services Program is designed to respond to eligible adults who are victims of abuse, neglect, and financial exploitation (ANE). The services and activities of the program are:

- a) Intake of ANE reports
- b) Assessment
- c) Case work
- d) Follow-up
- e) Early intervention services
- f) Multi-disciplinary teams
- g) Fatality review teams
- h) Public awareness/education.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.210 Definitions**EMERGENCY**

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Abuse Fatality Review Team" means a regional interagency review team established pursuant to Section 15 of the Act. Abuse Fatality Review Team also has the same meaning as At-Risk Adult Fatality Review Team.

"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]

"Act" means the Adult Protective Services Act [320 ILCS 20/1 *et seq.*].

"Adult Protective Services Hotline" means the 24-hour toll-free statewide telephone number that can be called to report suspected cases of abuse, neglect, or financial exploitation of eligible adults.

"Adult Protective Services Provider Agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation. "Adult Protective Services Provider Agency" has the same meaning as "designated agency".

"Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose disability impairs his or her ability to seek or obtain protection from abuse, neglect or financial exploitation. [320 ILCS 20/2 (a-6)]

"Allegation" means a charge or a claim of abuse, neglect, or financial exploitation.

"Alleged abuser" means a person who is reported as abusing, neglecting, or financially exploiting an adult with disabilities or older person.

"Alleged victim" means an adult with disabilities or older person who is reported as being abused, neglected, or financially exploited.

"ANE" means abuse, neglect, and financial exploitation.

"APS" means adult protective services.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect or financial exploitation is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

"Capacity to consent" to an assessment or services means an individual reasonably appears to be either (i) able to receive and evaluate information related to the assessment or services; or (ii) able to communicate in any manner decisions related to the assessment of the reported incident or services." [320 ILCS 20/9(d-5)]

"Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living. [320 ILCS 20/2(a-7)]

"Case work" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Case worker" means an employee of an APS provider agency who is authorized to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation and to develop and implement a service plan for a client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect or financial exploitation is occurring or has occurred.

"Client" is an eligible adult who is receiving services from the APS provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single APS provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an individual for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-129], or dementia as defined under the Alzheimer's Disease Assistance Act [410 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

"Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the IO/DD Community Care Act;

A facility licensed under the Specialized Mental Health Rehabilitation Act;

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; and

A "community residential alternative" as defined in the Community Residential Alternative Act [210 ILCS 140]. [320 ILCS 20/2(d)]

"Early Intervention Services" are the services purchased by APS provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. [320 ILCS 20/2(e)]

"Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the APS provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk. [320 ILCS 20/2(f)]

"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)].

"Follow-up" means the monitoring of substantiated cases of ANE for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Initial interview" means the preliminary contact made by an APS provider agency to determine the level of risk to an alleged victim, the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and his or her decisional capacity to consent to an assessment and/or services.

"Intake" means the point at which trained staff of the Illinois Department on Aging's Adult Protective Services Hotline, Senior HelpLine, a regional administrative agency, or APS provider agency receives a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect and relays the report to a case worker for further assessment.

"Intervention" means an action initiated by the adult protective services case worker or the APS provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency, or supportive services to, or on behalf of, the eligible adult.

"Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

a professional or professional's delegate while engaged in:

social services,

law enforcement,

education,

the care of an eligible adult or eligible adults, or

any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the Dietitian Nutritionist Practice Act [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], , the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107], the Respiratory Care Practice Act [225 ILCS 106], the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115], and the Illinois Public Accounting Act [225 ILCS 450];

an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services.

an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

an administrator, employee, or person providing services in or through an unlicensed community-based facility;

any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and APS provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report abuse, although they may voluntarily do so;

any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

a person who performs the duties of a coroner or medical examiner; or

a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]

"Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or

medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that must be met to reach a "some indication" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect or financial exploitation is occurring or has occurred.

"Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. [320 ILCS 20/2(h)]

"Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated. [320 ILCS 20/2(i)]

"Report taker" means the trained staff of the Illinois Department on Aging's Senior HelpLine, the Adult Protective Services Hotline, regional administrative agencies or APS provider agencies that performs intake of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited.

"Self-determination" means the right of an eligible adult with decisional capacity to:

decide where and how he or she will live;

choose whether to accept program services or other community assistance;
and

make decisions different from those a reasonable adult would make,
including "bad" decisions, which are not harmful to others.

"Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]

"Services" means medical, social, economic, legal, housing, law enforcement, or other protective, early, emergency, or supportive action provided to, or on behalf of, the eligible adult.

"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.

"Shared service area" means the designated area within a planning and service area where two or more APS provider agencies are responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Source of information" means the point of origin of information about the client.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an APS provider agency determines, after a review of all available information, that abuse, neglect or financial exploitation of an eligible adult has occurred.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which an APS provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred. [320 ILCS 20/2(j)]

"Suspicious death" means the instance where an APS provider agency reasonably believes that the death of an individual may be the result of abuse or neglect.

"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, or financial exploitation.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.215 Organizational Standards and Responsibilities: Department on Aging
EMERGENCY**

- a) Contingent upon adequate funding, *the Department shall establish, design, and manage a protective services program of response and services for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. The Department shall contract with or fund or contract with and fund, regional administrative agencies, APS provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to the Act.* [320 ILCS 20/3(a)]
- b) The Department shall have the overall responsibility for designing, managing and monitoring the Adult Protective Services Program.
- c) The Department shall designate regional administrative agencies and approve the designation and termination of APS provider agencies. Designated APS provider agencies are agents of the Illinois Department on Aging.
 - 1) If a regional administrative agency terminates its contract, it must so notify the Department in writing at least 30 days in advance and cooperate in the transition of functions and records to a successor agency so as to minimize risk to clients in the program.
 - 2) The Department shall assume the functions in the Planning and Service Area until a replacement is selected through a competitive procurement process.
- d) The Department shall design and manage the programmatic and financial reporting system for the program. The Department shall develop and manage a monitoring/quality assurance system for the program.
- e) The Department shall develop and implement public awareness efforts designed to publicize the purposes and mode of operation of the program through public service announcements, posters, and brochures.
- f) The Department shall provide technical assistance, policy clarifications and/or interpretations to regional administrative agencies on adherence to the rules, standards, and procedures established for the program. The Department may provide technical assistance in case handling directly to the APS provider agencies. The technical assistance provided by the Department may include legal advice and consultation. The Department's interpretation of statutes, rules, policy and procedure shall prevail.

- g) The Department shall provide training to APS provider agency staff who will assess reports of ANE or who will supervise staff performing the assessment function. Regional administrative agency staff working in the program shall also be trained by the Department.
- h) The Department shall maintain a registry of all APS provider agency and regional administrative agency staff that has successfully completed Department sponsored certification training and are employed in the program.
- i) The Department's "Adult Protective Services Hotline" shall receive reports of ANE and relay such reports to the appropriate APS provider agency within the required timelines.
- j) The Department shall also be responsible for, contingent upon adequate funding, coordination of efforts with other agencies, councils, and like entities, which may impact awareness of, and response to, abuse, neglect, and financial exploitation, and promotion of prevention activities for eligible adults. [320 ILCS 20/3.5(b)]
- k) *The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of the Act during such fiscal year, together with any recommendations for future implementation.* [320 ILCS 20/11]
- l) The Department shall reimburse APS provider agencies under contract at a uniform rate established by the Department. A separate rate shall be established for each of the following case activities completed by the APS provider agency: assessment, case work, and follow-up.
- m) If a designated APS provider agency terminates its contract to provide services, the Department, in coordination with the regional administrative agency, shall ensure that services are available without interruption to eligible adults within the terminated APS provider agency's service area.
- n) The Department shall establish and coordinate a training program on the unique nature of APS cases with other agencies and councils, including the Office of the Attorney General, the State Police, the State Triad, and other similar agencies. [320 ILCS 20/3.5(f)]
- o) The Department shall solicit *financial institutions for the purpose of making information available to the general public warning of financial exploitation of eligible adults and related financial fraud or abuse, including such information and warning available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the*

manner of displaying or distributing such information is subject to the sole discretion of each financial institution. [320 ILCS 20/3.5(g)]

- p) The Department shall coordinate *efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud. [320 ILCS 20/3.5(h)]*

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies
EMERGENCY

- a) The Department may designate an Area Agency on Aging to serve as a regional administrative agency or hold a competitive procurement for a Planning and Service Area.
- b) Each regional administrative agency in turn shall designate APS provider agencies within its planning and service area with prior approval by the Department on Aging. [320 ILCS 20/3(b)]
- c) A procurement process shall be held by the regional administrative agency for the designation of an APS provider agency in each service area at least every six years, except as provided in subsection (g)(1).
- d) The contract for services in a specified geographical area shall be awarded to a designated APS provider agency for a period of one year. The contract for services may be renewed annually by the regional administrative agency, with the prior approval of the Department.
- e) If a review of the proposals submitted during a procurement process fails to produce an acceptable APS provider agency for the service area, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis under Subsection (f).
- f) The regional administrative agency, after notification to, and concurrence by, the Department, may terminate the designation of an APS provider agency for failure to provide services in accordance with the contract and this Part.
- g) If the designation of an APS provider agency has been terminated, either at the initiative of the regional administrative agency or an APS provider agency, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement process produces an acceptable APS provider agency for the service area.
 - 1) When an APS agency has been selected on an emergency basis, the APS agency shall be designated for the balance of the fiscal year in which such designation was awarded, and for up to one additional year.
 - 2) Not later than two years following the emergency designation, the regional administrative agency shall conduct a procurement process for the designation of an APS provider agency for the specified service area.

- h) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (f) of this Section, for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (f) for procuring services for non-business hours for a combined or shared service area.
- i) The regional administrative agencies shall provide technical assistance to APS provider agencies and shall seek from Department staff policy clarifications and interpretations of standards and procedures.
- j) Regional administrative agencies shall monitor the performance of APS provider agencies, according to Departmental policies.
- k) The regional administrative agencies may assist the Department and APS provider agencies in raising public awareness and providing education on the issues of abuse, neglect, financial exploitation, and self-neglect. The regional administrative agencies shall include the following information when producing any public education materials:
 - 1) identification as a part of the Adult Protective Services Program;
 - 2) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll free 24-hour Adult Protective Services Hotline; and
 - 3) a nondiscrimination clause.
- l) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on such responsibilities.
- m) The regional administrative agency shall retain all books, records and other documents relevant to the operation of the program for three full years after final payment on the agreement and all other pending matters are closed, unless transfer is authorized in writing by the Department. The APS provider agency must insure that records are purged by completely shredding or incinerating.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.225 Organizational Standards and Responsibilities: Adult Protective Service Provider Agencies
EMERGENCY

- a) The APS provider agency shall enter into a written contract with the regional administrative agency to provide services in a specific geographical area in the regional administrative agency's planning and service area.
- b) The APS provider agency shall provide such services in accordance with the Act and this Part.
- c) The APS provider agency shall be open for business and available to receive ANE reports not less than 246 working days per calendar year under the following conditions:
 - 1) The APS provider agency shall not be closed for more than four consecutive days, unless an alternative method of receiving ANE reports is approved by and on file with the regional administrative agency and the Department.
 - 2) If a recorded message is activated during business hours, there must be an option to talk directly to a report taker at that time rather than leaving a message on voice mail.
 - 3) A report taker must be available at least seven hours each working day.
- d) The APS provider agencies may assist the Department by providing public awareness and education on the issues of abuse, neglect, financial exploitation, and self-neglect. The APS provider agencies shall include the following information when producing any public education materials:
 - 1) identification as a part of the Adult Protective Services Program;
 - 2) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll free 24-hour Adult Protective Services Hotline; and
 - 3) a nondiscrimination clause.
- e) The adult protective services agency shall not serve as a legal guardian or an agent under the Illinois Power of Attorney Act [755 ILCS 45] for any client in the program.
- f) The APS provider agency shall retain all books, records and other documents relevant to the operation of the program for three full years after final payment on

the agreement and all other pending matters are closed, unless transfer is authorized in writing by the Department. The APS provider agency must insure that records are purged by completely shredding or incinerating.

- g) A contract to provide adult protective services may be terminated by the APS provider agency in accordance with the termination clause in the contract.
- h) Pursuant to the terms of their contract, APS provider agencies shall have sufficient staff to perform all duties and responsibilities of the program for which an agreement to perform is in effect.
- i) APS supervisors must be involved in guiding and directing ANE cases and share responsibility in the case workers' decisions and actions in ANE cases.
- j) Qualifications:
 - 1) APS supervisors shall have:
 - A) a Master's Degree in health, social sciences, social work, health care administration, gerontology, disability studies, criminal justice, or public administration, and one year experience in health or human services; or
 - B) a Registered Nursing license, or a Bachelor of Science in Nursing (B.S.N.) or a Bachelor of Arts (B.A.)/Bachelor of Science (B.S.) in health, social sciences, social work, health care administration, gerontology, or criminal justice and three years experience in health or human services, including either one year of supervisory experience or one year of experience in aging, adults with disabilities or domestic violence programs or services;
 - C) Department sponsored APS case worker certification and on-line forms training;
 - D) Department sponsored Phase II certification training within six months of the APS case worker certification, to be placed on the Department's APS Case Worker Registry;
 - E) Department sponsored APS supervisor's certification training;
 - F) Fourteen hours of participation by actual attendance at in-service training on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training

shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, state, or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file;

- G) Eleven hours of qualifying recertification every three years which must be documented in the employee's personnel file; and

2) APS case workers shall have:

- A) a Master's Degree in health, social services, social work, health care administration, gerontology, disability studies, criminal justice, public administration; or
- B) a Registered Nursing license, or a B.S.N. or a B.A./B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice and one year experience in health or human services; or
- C) a Practical Nursing license, with two years experience in health or human services; and
- D) Department sponsored APS case worker certification and on-line forms training;
- E) Department sponsored Phase II certification training within six months of the APS case worker certification, to be listed on the Department's APS Case Worker Registry;
- F) Twelve hours of participation by actual attendance at in-service training on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, state, or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file.

- G) Eleven hours of qualifying recertification every three years which must be documented in the employee's personnel file.
- k) The Department may suspend or remove from the APS Case Worker Registry any case worker or supervisor who fails or refuses to perform the duties of a case worker or supervisor in accordance with these rules.
- l) The APS provider agency must return to the Department, within 15 days, any identification card of a case worker or supervisor who separates from employment.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.230 Abuse Reporting
EMERGENCY**

- a) *If any mandated reporter has reason to believe that an eligible adult, who because of disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under the Act or to the Department. [320 ILCS 20/4(a-5)]*
- b) *Whenever a mandated reporter is required to report under the Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive such reports under the Act or to the Department in accordance with the provisions of the Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. [320 ILCS 20/4(a-5)]*
- c) *Under no circumstances shall any person in charge of such institution, facility, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under the Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by the Act. [320 ILCS 20/4(a-5)]*
- d) *The identity of a person making a report of alleged or suspected abuse or neglect under the Act may be disclosed by the Department or other agency provided for in the Act only with such person's written consent or by court order, but is otherwise confidential. [320 ILCS 20/4(c)]*
- e) *Any mandated reporter who makes a report or any person who investigates a report under the Act shall testify fully in any judicial or administrative proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under the Act and the person making or investigating the report. [320 ILCS 20/4.2]*

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.235 Immunity**EMERGENCY**

- a) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under the Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability for such actions.
- b) *Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under the Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services.*
- c) *For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation or self-neglect shall be presumed. [320 ILCS 20/4(b)]*

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.240 Intake of Abuse, Neglect, and Financial Exploitation Reports
EMERGENCY**

- a) The following agencies and hotlines are authorized to receive ANE reports:
 - 1) the Department on Aging's toll free 24-hour Adult Protective Services Hotline;
 - 2) the Department on Aging's Senior HelpLine;
 - 3) Regional administrative agencies; and
 - 4) APS provider agencies.
- b) An APS provider agency receiving a report of ANE shall assign a priority to the report in accordance with the following:
 - 1) Priority one reports are reports of abuse or neglect where the alleged victim is reported as being in serious physical harm or in immediate danger of death or serious physical harm. Priority one reports include, but are not limited to, the following:
 - A) physical abuse such as fractures, head injuries, internal injuries, or burns, when the injury is of a serious nature, such as to require medical treatment;
 - B) threats of serious injury or death;
 - C) lack of basic physical necessities severe enough to result in freezing, serious heat stress or starvation;
 - D) immediate medical attention is needed to treat conditions that could result in irreversible physical damages such as unconsciousness, acute pain, or severe respiratory distress;
 - E) alleged sexual abuse that has occurred in the last 72 hours;
 - F) threats of sexual abuse where the alleged abuser has access to the alleged victim; and
 - G) punishment by the alleged abuser, such as locking the alleged victim in the closet.
 - 2) Priority two reports are reports of abuse, neglect or financial exploitation where the alleged victim is reported as being abused, neglected or

exploited and the report taker has reason to believe that the consequences are less serious than priority one reports. Priority two reports include, but are not limited to, the following:

- A) physical abuse involving scratches or bruises;
 - B) inadequate attention to physical needs such as insufficient food or medicine;
 - C) unreasonable confinement; and
 - D) probability of liquidation or depletion of an alleged victim's income and assets.
- 3) Priority three reports are reports of abuse, neglect or financial exploitation where the alleged victim is reported as being emotionally abused by a caregiver or the alleged victim's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate threat of harm to the alleged victim.
- c) If a report includes allegations or conditions of more than one priority, the report taker that has received the report assigns it to the higher priority.
- d) An agency that is not an APS provider agency shall forward reports of ANE to the appropriate APS provider agency within two hours.
- e) The APS provider agency is directed to respond to reports of ANE within required time frames, including making a good faith attempt to conduct a face-to-face visit with the alleged victim.
- f) The required time frames for each priority are: for "priority one" reports, 24 hours from the receipt of the report; "priority two" reports, 72 hours from the receipt of the report; and for "priority three" reports, seven calendar days from the receipt of the report.
- g) The following exceptions shall apply and extend the time frames specified by that priority:
- 1) The alleged victim of the "priority one" report has been admitted to the hospital, in which case the required response time for a face-to-face visit is extended from 24 hours to the following work day.
 - 2) The report is a "priority two" or "priority three" report, the adult protective services case worker is likely to be in danger, and a police officer or an

appropriate other individual is called to investigate or escort the worker. An appropriate other escort may be, but is not limited to, a mental health professional, health professional, or significant relative. The required response time for a face-to-face visit is then extended until such a time as the police officer or appropriate escort is available, not to exceed three days beyond the required response time established for the priority.

- 3) The alleged victim does not wish or consent to a face-to-face visit within the time frame.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.241 Reporting a Suspicious Death
EMERGENCY**

- a) Where a report taker receives a report of a suspicious death, he or she shall promptly forward the report to the appropriate APS provider agency. The APS provider agency shall then immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner.
- b) Between 30 and 45 days after reporting a suspicious death, *the APS provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken.*
 - 1) Upon request by an APS provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an alleged victim.
 - 2) A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the alleged victim. [320 ILCS 20/3(C-5)]

(Source: Added by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.245 Access to Alleged Victims
EMERGENCY**

- a) The designated APS provider agencies shall have access to alleged victims who are reported to be victims of abuse, neglect, or financial exploitation in order to assess the validity of the report, assess other needs of the alleged victim, and provide services in accordance with the Act. [320 ILCS 20/13(a)]
- b) When the case worker is unable to access the alleged victim due to interference by another, the case worker shall seek the assistance of law enforcement. If the report is a "priority one", the adult protective services case worker shall immediately seek police assistance in accessing the alleged victim. If the report is a "priority two" or a "priority three", then the adult protective services case worker will make at least one additional attempt, and up to four additional attempts, to gain access to the residence prior to seeking police assistance.
- c) *Where access to an eligible adult is denied, the Office of the Attorney General, the Department, or the APS provider agency may petition the court for an order to require appropriate access where:*
 - 1) *a caregiver or third party has interfered with the assessment or service plan, or*
 - 2) *the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation.* [320 ILCS 20/13(b)]
- d) If the initial face-to-face visit indicates that the alleged victim does not meet the eligibility criterion for the program, the APS provider agency will terminate the assessment, document this finding in the case record, and refer the person to other appropriate services or agencies.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.250 Minimum Assessment and Classification Standards
EMERGENCY**

- a) An APS provider agency designated to receive reports of alleged or suspected abuse, neglect, or financial exploitation under the Act shall conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the alleged victim who is the subject of the report and may include interviews or consultation with service agencies or individuals who may have knowledge of the alleged victim's circumstances. [320 ILCS 20/5(a)]
- b) A decision on the merits of each report must be made according to the following:
 - 1) Verified: When there is clear and convincing evidence resulting in a determination that the specific injury or harm was the result of abuse, neglect, or financial exploitation.
 - 2) Some Indication: When there is a fair preponderance of evidence that suggests some indication of abuse, neglect, or financial exploitation has occurred.
 - 3) No Indication: When there is a lack of credible evidence indicating that abuse, neglect, or financial exploitation has occurred.
 - 4) Unable to Verify: This determination is used when the report does not meet the eligibility criteria of the program, the APS provider agency is unable to locate the alleged victim, the APS provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.
- c) Each report must be either substantiated, unsubstantiated, or unable to substantiate, as follows:
 - 1) Substantiated: When one or more of the alleged types of ANE was classified as either "verified" or "some indication".
 - 2) Unsubstantiated: When all of the alleged types of ANE were determined to lack credible evidence that indicated abuse, neglect, or financial exploitation.
 - 3) Unable to substantiate: When the APS provider agency lacked jurisdiction; was unable to locate the alleged victim; was unable to access the alleged victim; the alleged victim was ineligible; the alleged victim refused to cooperate; or the alleged victim was deceased.

- d) If, after the assessment, the APS provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.
- e) The APS provider agency shall prepare a confidential case record to document each report of abuse, neglect, or financial exploitation, to include the following information where available and when applicable to the case:
 - 1) essential client information, such as name, address, age, and phone number;
 - 2) descriptions of the reported, suspected or alleged abuse, neglect, or financial exploitation;
 - 3) investigative reports;
 - 4) injury location charts;
 - 5) records of financial transactions;
 - 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
 - 7) information relating to the mental competency of the eligible adult;
 - 8) information on the assessment of the eligible adult, including medical or psychiatric reports;
 - 9) summaries of the substantiation decision;
 - 10) summaries of services or interventions offered or arranged;
 - 11) reports on the termination, resolution or closure of the case;
 - 12) referrals to law enforcement, coroners or medical examiners;
 - 13) notification to probate court of a substantiated finding of abuse, neglect or financial exploitation by a guardian; and
 - 14) suspicious death reports and any follow up documentation.
- f) An APS provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect,

financial exploitation of an eligible adult, whether or not there is a substantiated finding.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.255 Abuse, Neglect, and Financial Exploitation Case Work, Follow-Up, Referrals and Case Closure
EMERGENCY**

a) Case Work

APS provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. [320 ILCS 20/3(c)]

- 1) If, after the assessment, the APS provider agency determines that the case is substantiated, it shall develop a case plan for the eligible adult, where he or she consents to services.
 - A) In developing a case plan, the APS provider agency may consult with any other appropriate professional and/or provider of services, such as, advocacy, care coordination, counseling, education, emergency aid, financial, housing, law enforcement, legal, long term care, managed care, medical, nutrition, personal assistance, relocation, respite, social supports through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs for the purpose of stabilizing the abusive situation and reducing the risk of further harm, and such professionals and/or providers shall be immune from civil or criminal liability on account of such acts.
 - B) The case plan shall include alternatives suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs.
 - 1) The case worker shall use his or her professional judgment in advocating in the best interest, safety, and welfare of the eligible adult.
 - 2) The eligible adult's interests to live in the most independent setting with the least restrictive alternatives for legal, medical, and social services come before those of any other family community members.
 - 3) The case worker shall involve the eligible adult, and his or her family for support, if possible, in the development of the intervention, and explain, in a direct manner, the situation, the range of available options for services, and the consequences of failing to cooperate or refusing to

accept services, so the eligible adult can exercise his or her maximum decision-making ability.

- C) The APS provider agencies shall establish working relationships with disability agencies for purposes of mutual training, referral and service response.
- 2) Only those services to which consent is given in accordance with Section 9 of this Act shall be provided, contingent upon the availability of such services. [320 ILCS 20/5]
- b) Follow-up

All services provided to an eligible adult shall be reviewed by the APS provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department may grant a waiver to extend the service care plan for up to 1 additional year. [320 ILCS 20/7]
- c) Referral

An APS provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. [320 ILCS 20/5(b)]
- d) The "evidence of crimes" referred to in subsection (c) includes:
 - 1) death that may have been the result of abuse or neglect;
 - 2) brain damage;
 - 3) loss or substantial impairment of a bodily function or organ;
 - 4) bone fracture;
 - 5) extensive burns;
 - 6) substantial disfigurement;
 - 7) sexual assault or aggravated sexual assault;
 - 8) serious bodily injury as the result of a pattern of repetitive actions;

- 9) extensive swelling or bruising, depending on such factors as the eligible adult's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
 - 10) serious symptoms resulting from the use of medications or chemical restraints, or the withholding of life sustaining medications (e.g., insulin);
 - 11) evidence of severe neglect, such as unreasonable decubiti;
 - 12) other activity that would place the eligible adult in imminent danger of death or serious bodily injury; or
 - 13) any felonious criminal activity directed at the eligible adult that the case worker directly observes.
- e) Where an APS provider agency has reason to believe that the death of an eligible adult that occurs during the course of assessment, casework, or follow-up may be the result of abuse or neglect, the agency shall promptly report the matter to both the appropriate law enforcement agency and coroner or medical examiner and make subsequent contact with them in accordance with the timeframes set forth in Section 270.241(b). [320 ILCS 20/3(c-5)]
- f) Upon request by an APS provider agency, law enforcement agencies, coroners and medical examiners shall supply a summary of its action in response to a reported death of an eligible adult. The APS provider agency shall maintain a copy of the report and all follow-up with law enforcement, coroners and medical examiners shall be documents in the case record of the eligible adult.
- g) In all cases in which there is a substantiated finding of abuse, neglect, or financial exploitation by a guardian, the APS provider agency shall, within 30 days after the finding, notify the probate court with jurisdiction over the guardianship.
- h) Case Closure
An APS provider agency shall close a case when:
- 1) the alleged victim refuses services;
 - 2) the alleged victim is deceased, unless the death was the apparent result of the ANE, subject to cooperation under subsection (c);
 - 3) the alleged victim has entered a long term care facility and resided there for 60 days; provided the Department may waive the 60 day limitation in cases where the APS provider agency submits evidence that such a waiver is necessary to protect the safety and well being of the client;

- 4) the alleged victim has moved out of the area; provided, if the alleged victim remains at risk and the APS provider agency is aware of the new location, the APS provider agency shall refer the case to the APS provider agency in the location of the new residence for case work and follow-up services;
- 5) the victim is no longer at risk of ANE;
- 6) the victim has received "uninterrupted" follow-up services for 12 months, which shall be considered an "administrative closure";
- 7) the report is not substantiated; or
- 8) the alleged victim is determined to be ineligible for services.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.260 Authority to Consent and Court Petitions
EMERGENCY**

- a) The APS provider agency shall conduct an initial interview to determine:
 - 1) the level of risk to an alleged victim,
 - 2) the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and
 - 3) his or her decisional capacity to consent to an assessment and/or services.
- b) If it reasonably appears to the APS provider agency that the alleged victim has decisional capacity at the initial interview, then the APS provider agency will conduct an assessment of the reported incident of suspected abuse, neglect, financial exploitation, or self-neglect in accordance with Section 270.250, put Early Intervention Services in place as needed under Section 270.265, and provide other services as appropriate in completing case work, follow-up, referral to law enforcement and case closure under Section 270.255.
 - 1) If the alleged victim consents to services being provided according to the case plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services.
 - 2) *If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and refuses to accept such services, the services shall not be provided. [320 ILCS 20/9(a)]*
- c) *An alleged victim "lacks the capacity to consent" if qualified staff of an agency designated under this Act reasonably determine, that he or she appears either (i) unable to receive and evaluate information related to the assessment or services or (ii) unable to communicate in any manner decisions related to the assessment of the reported incident or services. [320 ILCS 20/9(d-5)]*
- d) If it reasonably appears to the APS provider agency that the alleged victim lacks decisional capacity at the initial interview, and there is no immediate risk of harm, then the APS provider agency will continue to intervene in order to determine if the alleged victim has a guardian or agent under an advance directive with authority to act on his or her behalf for consenting to an assessment and/or services.
 - 1) Upon consent by the guardian or agent under an advance directive, services will be provided according to the case plan and shall be arranged

to meet the alleged victim's needs, based upon the availability of resources to provide such services.

- 2) If the alleged victim either does not have a guardian or agent, or the guardian or agent lacks authority to act, the APS provider agency shall either contact:
 - A) an immediate family member, other relative, close personal friend of the alleged victim, or other person identified by the alleged victim as being involved with his or her care, to petition the court for that individual's appointment as a guardian in accordance with Article XIa of the Probate Act of 1975 for the purposes of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition. [755 ILCS 5/Art. XIa]; or
 - B) the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purposes of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition. [320 ILCS 20/9(b)]
- 3) If the APS provider agency seeks the appointment of a guardian pursuant to Article XIa of the Probate Act of 1975, the APS provider agency shall notify the nearest relatives of the disabled person not less than 14 days prior to the scheduled hearing, as provided by Sections 11a-8 and 11a-10(f) of the Probate Act of 1975. [320 ILCS 20/9(b)]
- 4) If a guardian or agent is the suspected abuser and he or she withdraws consent for the assessment of the reported incident, or refuses to allow services to be provided to the alleged victim, the APS provider agency, or the Office of the Attorney General may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian. [320 ILCS 20/9(c)]
- e) If it reasonably appears to the APS provider agency that the alleged victim lacks decisional capacity at the initial interview, and there is an immediate risk of harm or some other *emergency exists, then the APS provider agency may:*

- 1) take appropriate action necessary to ameliorate the risk by consulting with any other appropriate professional and/or provider of services, through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs, stabilize the abusive situation and reduce the risk of further harm, such as:
 - A) seeking assistance of law enforcement to gain access to the alleged victim;
 - B) obtaining emergency medical care;
 - C) petitioning for Orders of Protection, Restraining Orders, or orders freezing assets;
 - D) purchasing early intervention services under Section 270.265; and
 - E) applying for appointment of a representative payee; and/or
- 2) *request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, financial exploitation, or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 [750 ILCS 60]. [320 ILCS 20/9(d)]*
 - f) *Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the APS provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the alleged victim from further harm. [320 ILCS 20/9(e)]*
 - f) *If the APS provider agency has substantiated financial exploitation against an alleged victim, and has documented a reasonable belief that the alleged victim will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General or the APS provider agency may petition for an order freezing the assets of the alleged victim. The petition shall be filed in the county or counties in which the assets are located. [320 ILCS 20/13(d)]*

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective

AGE

89 ILLINOIS ADMINISTRATIVE CODE 270

270.260

_____, for a maximum of 150 days)

Section 270.265 Early Intervention Services
EMERGENCY

- a) Services that may be purchased by the APS provider agency for eligible adults include emergency aid, respite care, legal assistance, housing and relocation services, or other services designed to protect the health, welfare and/or safety of the eligible adult.
- b) The Department shall establish a maximum amount available to a victim in each year he or she receives services. The Department shall also establish procedures whereby the regional administrative agency and the Department may allow for additional expenditures of such funds as are necessary to obtain emergency or essential services to protect the client.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.270 Multi-disciplinary Teams**EMERGENCY**

- a) Every APS provider agency that has more than 7,200 potential eligible adults in their designated service area shall develop and maintain a multi-disciplinary team (M-Team).
- b) The M-Team shall act in an advisory role to the APS provider agency for the purpose of providing professional knowledge and expertise in the handling of complex abuse cases.
- c) Each M-Team shall consist of one volunteer representative each from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. The APS provider agency may choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields.
- d) The M-Team shall meet a minimum of eight times a year.
- e) Each M-Team member shall sign a confidentiality agreement not to release any client information.
- f) The APS provider agency shall have written procedures for recruiting M-Team members; for preparing and conducting M-Team meetings; and for financial management of M-Teams.
- g) The Department shall provide funding to APS provider agencies to support the cost of staff time, mailings, meeting space and other costs related to M-Team meetings. M-Team members shall not be reimbursed for their services.
- h) Law enforcement agencies, coroners, and medical examiners shall supply records to M-Teams as may be requested in particular cases.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.275 Confidentiality and Disclosure
EMERGENCY**

- a) The Adult Protective Services Act provides that the identity of any person making a report of alleged or suspected abuse, neglect, or financial exploitation may be disclosed only with that person's written consent or by court order.
- b) All records concerning reports of abuse, neglect, financial exploitation or self-neglect and all records generated as a result of such reports, including, but not limited to, referrals and intervention services, shall be confidential and shall not be disclosed or subject to subpoena except as specifically authorized by the Act or other applicable law and only after a case is closed.
- c) These confidential records are exempt from inspection and copying under the Freedom of Information Act. [5 ILCS 140/7.5(y)]
- d) Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be allowed to the following persons and for the following persons:
 - 1) Department staff, APS provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;
 - 2) A law enforcement agency investigating a known or suspected case of abuse, neglect, financial exploitation or self-neglect. Where an APS provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;
 - 3) *A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited or self-neglected or who has been referred to the Adult Protective Services Program;*
 - 4) An eligible adult reported to be abused, neglected, financially exploited, or self-neglected or to such adult's legal guardian or agent when access to such records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case;

- 5) An executor or administrator of the estate of an eligible adult who is deceased when relevant to administration of the estate and a complete authorization for release of records is submitted ;
- 6) A court or a guardian ad litem, upon its or his or her written finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines, following the in camera inspection, that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;
- 7) *In cases regarding self-neglect, a guardian ad litem;*
- 8) *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*
- 9) Any person authorized by the Director, in writing, for audit, program monitoring or bona fide research purposes;
- 10) A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, or financial exploitation. The APS provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;
- 11) A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between an APS provider agency and the coroner or medical examiner, under which the APS provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation or self-neglect;
- 12) *Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by APS provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging.*
- 13) Department of Healthcare and Family Services staff when that Department is funding services to the eligible adult, including being given access to the identity of the eligible adult;
- 14) Department of Human Services staff when that Department is funding services to the eligible adult or is providing reimbursement for services

provided by the abuser or alleged abuser, including being given access to the identity of the eligible adult;

- 15) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act [405 ILCS 40] shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult. [320 ILCS 20/8]
- e) An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:
 - 1) supporting documentation of the agency or guardianship evidencing current authority to act on behalf of the eligible adult or his or her estate; and
 - 2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.
 - f) The release of records may be refused if evident to not in the best interest of the eligible adult.
 - g) All records must be maintained as confidential and stored in a designated and secure area within the APS provider agency offices.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART D: ADULT PROTECTIVE SERVICES VOLUNTEER CORPS

**Section 270.280 Definitions
EMERGENCY**

Activity Plan: The document that describes and records the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of the individual volunteer.

Agreement: The document signed by an authorized representative of the APS provider agency and the volunteer in which the APS provider agency appoints the volunteer as an agent and representative of the Adult Protective Services Program and the volunteer accepts that appointment and the concomitant responsibilities. This agreement shall constitute the volunteer contract required by the State Employee Indemnification Act [5 ILCS 350].

Companion-type services: Activities intended to assist the eligible adults served by the APS provider agency, which may include, but are not limited to, visitations, assistance in transportation, and other personal assistance that does not involve medical, nursing or professional services.

APS provider agency: An organization designated by the Department pursuant to Section 3 of the Act to provide services to eligible adults pursuant to that Act.

Public awareness: Activities designed to educate and inform the public, which may include, but are not limited to, giving public presentations and speeches; participation in public informational fairs; representing the APS provider agency with community, social service or senior advocacy groups; the creation or production of television or radio public service announcements; and the writing, editing or distribution of newspaper articles, magazine articles, press releases or information sheets.

Regional Administrative Agency: A public or private entity that has been designated by the Department pursuant to Section 3 of the Act.

Volunteer: An individual who has been appointed by the APS provider agency to provide "public awareness services" to that agency or "companion-type services" to eligible adults in accordance with the APS provider agency's Volunteer Plan and the individual volunteer's Activity Plan.

Volunteer Plan: The document created by the APS provider agency and approved by the Department that describes the procedure for the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of volunteers.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.285 Selection and Screening
EMERGENCY**

- a) Each APS provider agency utilizing volunteers under this Subpart shall create a Volunteer Plan, approved by the Department, to recruit, select, screen, train, appoint, assign, supervise and evaluate volunteers.
- b) The recruitment, selection, and screening of volunteer applicants shall be the responsibility of the APS provider agency. Each volunteer applicant shall submit the required personal, professional and background information (see subsection (c)) on a form prescribed by the Department.
- c) The APS provider agency shall conduct a screening of each volunteer applicant. This screening process may include, but is not limited to, personal interviews; reference checks; fingerprint checks; credit checks; medical and mental health checks; background checks; driving record checks; and reviews of professional disciplinary actions, criminal prosecutions, and police records.
- d) The purpose of the screening process is solely to determine the suitability of the volunteer applicant to serve as an appointed volunteer. The APS provider agency shall not seek any personal information on a volunteer applicant beyond that which is necessary to complete the screening process. The screening process of the volunteer applicant shall be the same regardless of expected assignment of the individual volunteer.
- e) Each volunteer applicant shall be required to sign an authorization for the release of the information the APS provider agency has determined to be necessary to complete the screening process. All such information gathered in the course of the background checks and reviews of volunteer candidates shall be held in the strictest confidence permitted by law.
- f) Upon the completion of the screening process, the APS provider agency shall notify the volunteer applicant whether he or she will be designated as a volunteer. The APS provider agency shall also inform those volunteer applicants who are not so selected of the basis for the decision. The decision of the APS provider agency is final.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.290 Training
EMERGENCY

- a) The training of volunteers is the responsibility of the APS provider agency, and shall be done according to the Volunteer Plan. Prior to being assigned any responsibilities, the volunteer must have satisfactorily completed an initial course of training of not less than six hours.
- b) The initial volunteer training shall include materials on program procedures, APS provider agency organization, types of abuse and neglect, confidentiality, safety procedures, the dynamics of client interaction, and additional subjects as each APS provider agency deems necessary.
- c) Each volunteer shall take the advanced training deemed appropriate and necessary by the APS provider agency to undertake the activities to which the volunteer will be assigned.
- d) The initial volunteer training shall be repeated for classes of new volunteers as needed.
- e) As a part of the Volunteer Plan, the APS provider agency shall maintain copies of past and current training agendas.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 270.295 Volunteer Agreement and Volunteer Responsibilities
EMERGENCY**

Each volunteer, upon being appointed, and prior to entering into his or her assigned activities, shall sign a volunteer agreement with the APS provider agency. The agreement shall have been approved by the Department, and shall include the name and contact information for the volunteer, the number of hours per week or month that the volunteer anticipates serving, a statement of the general activities to which the volunteer will be assigned, and the following stipulations by the volunteer:

- a) the volunteer agrees to maintain confidentiality as required by the Act, the standards of the Adult Protective Services Program, and the policies of the APS provider agency, during and after the period of volunteer service;
- b) the volunteer acknowledges and accepts the responsibilities of being a mandated reporter for abuse of older adults, persons with disabilities, and children;
- c) the volunteer agrees to inform the APS provider agency, in writing, of the existence of any apparent conflict of interest, including a preexisting personal or professional relationship with any client of the program to whom the volunteer might be assigned;
- d) the volunteer agrees to maintain the appropriate driver's license and statutorily required insurance coverage if the volunteer is to be acting as a driver for eligible adults; and
- e) the volunteer agrees to abide by all statutory law, administrative rules, Departmental policies, and APS provider agency policies that apply to and govern the APS provider agency.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 270.300 Activities and Supervision
EMERGENCY

- a) The APS provider agency shall assign volunteers and provide supervision of each volunteer according to the Volunteer Plan. Each volunteer shall have an individualized Activity Plan, which shall include a job description of the specific assignment of the volunteer.
- b) A copy of the Activity Plan for each volunteer shall be maintained in the records of the APS provider agency.
- c) Each individualized Activity Plan shall include a record of all the training, assignments, activities, supervision, and evaluations of the volunteer.
- d) The Volunteer Plan shall be available for inspection and copying by law enforcement agencies, the Regional Administrative Agency, and the Department on Aging.
- e) The individual Activity Plans shall be available for inspection and copying by law enforcement agencies in the course of conducting a criminal investigation, and by the Department and appropriate Regional Administrative Agency (with redactions of identifying client information as necessary to maintain confidentiality) for monitoring and supervisory purposes.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)